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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/639,921	08/14/2003	Daniel Wesley Pangburn		6687

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DANIEL W. PANGBURN  
501 VIA CODO  
FULLERTON, CA 92835-1453

EXAMINER

HENDERSON, MARK T

ART UNIT PAPER NUMBER

3722

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/639,921

Applicant(s)

PANGBURN, DANIEL WESLEY

Examiner

Mark T Henderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/14/03</u> . | 6) <input type="checkbox"/> Other: ____  |

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## **DETAILED ACTION**

### **Faxing of Responses to Office Actions**

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing of responses to Office Actions directly into the Group at (703)872-9306. This practice may be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the pressure sensitive adhesive with a peel-off protective cover, and a foam tape with a peel-off cover as stated in Claims 5 and 6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. Claims 1 recites the limitation "the pages" in line 4; "the height" in line 7; "the center" in line 8; "the outermost edges" and the inside surfaces" in line 9; and "the uppermost part" in line 12. There is insufficient antecedent basis for this limitation in the claim.

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Beyer (3,591,300).

Beyer discloses in Fig. 1-3, a page-lifting device comprising: a pair of page lifters (30) hinge mounted (54) to an attach member (29); wherein one page lifter is located in front of all pages (S) and the other is located behind the pages (seen in Fig. 4); an attaching member fixedly attached to the ring base cover (wherein rings halves (12) are connected to the member through apertures (40); wherein the hinge member is located at the center of the circular binder rings (see Fig. 4); wherein the page lifter is made from a flexible material where a thin section (54, in Fig. 1 and 3) forms a flexure acting as a hinge (Col. 3, lines 5-11).

4. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Zabielski (4,420,271).

Zabielski discloses in Fig. 4 and 5 (First Embodiment), a page-lifting device comprising: a pair of wire page lifters (20 and 21) hinge mounted (at sockets 25) to an attach member (5);

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wherein one page lifter (20) is located in front of all pages (not shown) and the other page lifter (21) is located behind the pages (not shown); an attaching member (25) fixedly attached to the ring base cover (5, shown in Fig. 4); wherein the hinge member (25) is located at approximately the center of the circular binder rings (see Fig. 4).

5. Claims 1, 4 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Zabielski (4,420,271).

Zabielski discloses in Fig. 1 (Second Embodiment), a page-lifting device comprising: a pair of wire page lifters (1 and 2) hinge mounted to a wired attach member (4); wherein one page lifter (1) is located in front of all pages (not shown) and the other page lifter (2) is located behind the pages (not shown); an attaching member (4) fixedly attached to the ring base cover (5, shown in Fig. 1 and stated in Col. 3, lines 48-51); wherein the hinge (as shown in Fig. 1) is located at approximately the center of the circular binder rings (14 and 15). Zabielski also discloses a third embodiment, wherein a pair of page lifters (1 and 2) hinge mounted to an attach member (which can be cloth as stated in Col. 2, lines 50-53); wherein one page lifter (1) is located in front of all pages (not shown) and the other page lifter (2) is located behind the pages (not shown); an attaching member (cloth, as indicated in Col. 2, lines 50-51) fixedly attached (by adhesive, as indicated in Col. 2, lines 51-52) to the ring base cover (5, shown in Fig. 1 and stated in Col. 3, lines 48-51).

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***Allowable Subject Matter***

6. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Prior Art References***

The prior art references listed in the attached PTO-892, but not used in a rejection of the claims, are cited for (their/its) structure. Wance, Schade, Orth et al, and Raynolds discloses similar page lifters.

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**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (703)305-0189. The examiner can be reached on Monday - Friday from 7:30 AM to 3:45 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, A. L. Wellington, can be reached on (703) 308-2159. The fax number for TC 3700 is (703)-872-9302. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 3700 receptionist whose telephone number is (703)308-1148.



MTH

September 24, 2004



A. L. WELLINGTON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700